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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,513	01/23/2004	Richard F. Schroeder	07528.0010-01000	5243

22852 7590 10/31/2007
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EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3766

MAIL DATE	DELIVERY MODE
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10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/762,513

Applicant(s)

SCHROEDER ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

8/16/07

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 8/16/07 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. 7/16/07
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

7/16/07

FRAN JHB
OROPEZA 10/29/07

Status

- 1) ☒ Responsive to communication(s) filed on 8/15/07 (Amendment).
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-115 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 64-115 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 - Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
 - Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

OFFICE ACTION

Non-Responsive

1. The rewording of the claims and the election of the amendment filed on 8/15/07 is not fully responsive to the Office action mailed 7/16/07.

Some of the terms used in the claims such as “filament”, “orthogonal” and “coaptation”, for example, are words not found in the original specification. New words are deemed to be new matter, and the new matter must be removed from the claims. Appropriate correction is required.

Some words, such as “structure” are found in the specification, but the words used for “structure” to further define the different embodiments differ. The “structure” limitation in independent claims 64, 75, 90, and 101 can be many things depending on which embodiment of the invention one is viewing. The “structure” as related in figure 5a is read as an anchor pad structure (40), the structure in figure 5b is read as an accessory anchor pad assembly (50), the “structure” in figures 4a, 4b, and 4c is read as anchor assemblies (28, 28', 28'') and so on. While the Applicant did relate the words used in the claims to the embodiment shown in figures 5a and 5b, the Applicant did not relate the words to all the other embodiments that are disclosed in the application. One reading the claims would not focus on figures 5a and 5b, but would rather read the terms to include all the embodiments. It appears the Applicant is electing the species embodiment of figures 5a and 5b. If this is the case, the connection member limitation, for example, should be named --runner-- and not “connection member”.

While the Applicant can be his own lexicographer, it is critical that the terms used by the Applicant be clear and consistent. While the claims are to be interpreted broadly, the limitations

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must clearly relate to the specification. The claims must be rewritten and submitted, the claims including only limitations disclosed in the original specification.

Once the claims have been written, the Applicant must respond to the requirement of an election of species, mailed 4/3/07, including identification of the elected embodiment and listing of the claims reading on that embodiment.

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frances P. Oropeza
Patent Examiner
Art Unit 3766

FPO
10/29/07

Carl H. Layno
CARL LAYNO
PRIMARY EXAMINER